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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 10/523,408 | 02/03/2005 | Robert Trebbi | 023349-00301 | 6298 |

4372 7590 05/04/2006

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EXAMINER

PARADISO, JOHN ROGER

| | |
|----------|--------------|
| ART UNIT | PAPER NUMBER |
|----------|--------------|

3721

DATE MAILED: 05/04/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|------------------------|---------------------|--|
| Office Action Summary | Application No. | Applicant(s) | |
| | 10/523,408 | TREBBI ET AL. | |
| | Examiner | Art Unit | |
| | John R. Paradiso | 3721 | |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) _____ is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date <u>2/3/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The drawings are objected to as failing to comply with 37 CFR 1.84(p)(5) because they do not include the following reference sign(s) mentioned in the description:

- Page 4 of the Specification refers to a first carousel (2), but this is not labeled as such in the Drawings;
- Page 4 of the Specification refers to a first hopper (30), but this is not labeled as such in the Drawings;
- Page 5 of the Specification refers to a central channel (18)), but this is not labeled as such in the Drawings;
- On page 4 of the Specification, the label (3) refers both to a slide unit (line 11) and a pick up means (line 33).

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

3. Claims 1, 2, and 4 are rejected under 35 U.S.C. 102(e) as being anticipated by JOHNSTON ET AL (US 6357490).

JOHNSTON ET AL discloses a capsule filling machine with a plurality of reciprocating doser means (78) mounted at regular intervals on a rotating carousel (62) (See JOHNSTON ET AL Fig. 6). The doser means are operative between a first position in which the doser picks up particulate matter and second position in which the doser transfers the particulate matter into capsules. The doser means are biased by means of springs (62). The capsules are then sealed and ejected into a hopper (110).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over in view of JOHNSTON ET AL (US 6357490).

JOHNSTON ET AL discloses a capsule filling machine, as described above.

JOHNSTON ET AL does not disclose the intervals between doser means to be 120 degrees.

However, JOHNSTON ET AL discloses the dosing means being placed at 72 degree intervals and it would have been obvious to one of ordinary skill in the art at the time the invention was made to make the intervals 120 degrees, or any desired interval, in order to produce the most efficient rotating mechanism, since it has been held that rearranging parts of an invention involves only routine skill in the art.

Reference Citations

6. The following prior art made of record and not relied upon is considered pertinent to Applicant's disclosure:

- TANNER ET AL discloses a capsule-filling machine which fills capsules with granular material.

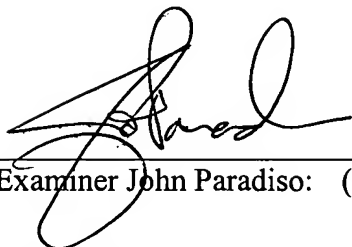
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Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (571) 272-4466

April 30, 2006

Additional Phone Numbers:

Supervisor Rinaldi Rada: (571) 308-7135

Fax (Official): (571) 273-8300

Fax (Direct to Examiner) (571) 273-4466 (Drafts only)